IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 4157 of 2006
Date of Decision: 01.12.2006

Satya Khattar and others ...Appellants

Versus

Haryana Urban Development Authority and other ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Ms. Deepali Puri, Advocate, for the appellants.

HEMANT GUPTA, J.

The plaintiffs are in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby suit for declaration challenging the order of resumption dated 7.7.1995 and the order in appeal dated 24.9.2002, was dismissed.

It has been found that the plot was allotted to the predecessor-in-interest of the plaintiffs on 30.7.1980 and the possession was delivered to the plaintiff on 6.2.1984. It has been found that sewerage line over the plot in question was shifted in the year 1991 but still, the balance sale consideration other than initial 25% deposit was not paid, which led to resumption of the plot, after service of the notices under Sections 17(1) to 17(4) of the Haryana Urban Development Authority, Act, 1971 (for short `the Act').

Though the jurisdiction of the Civil Court is barred in terms of Section 50 of the Act, but the Courts below after examining the legality of the resumption order, found that such resumption order cannot be said to be suffering from any illegality or irregularity, which may warrant interference by the Civil Court. It has been found that in view of the statement of DW2 Karambir Singh, Despatch Clerk, the notices under Sections 17(1) to 17(4) of the Act (Exhibits D.16 to D.29) have been issued to the allottee and that the amount was not deposited. The Court has also considered the factum of earlier suit filed by the plaintiffs, wherein a direction was issued not to dispossess the plaintiffs till the appeal pending before the Appellate Authority, is decided. Therefore, the Courts found that the order of resumption is in terms of the statutory provisions.

Learned counsel for the plaintiffs has vehemently argued that the address on the notices is that of Chawla Colony, Sector-7, Faridabad. However, learned counsel could not substantiate the said argument. In fact, it has been recorded by the learned first Appellate Court that Exhibits D.16 to Exhibit D.29 are the various letters sent by the defendants to the plaintiffs on their given address. It has been further found that there is no dispute about the fact that the address given by the plaintiffs is the same which is mentioned in the allotment letter and naturally the defendants shall comply with the condition of allotment letter to remind the plaintiffs about the deposit of the amount.

Thus, the plot has been resumed after issuing notice as contemplated by law. The order of resumption could not have been challenged even before the Civil Court in view of the statutory bar contained in Section 50 of the Act.

The concurrent findings of fact recorded by the Courts below cannot be said to be suffering from any patent illegality or irregularity, which may raise any substantial question of law for consideration in the present appeal.

Hence, the present appeal is dismissed in limine.

01-12-2006 (HEMANT GUPTA)
ds JUDGE